

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FORTIS CORPORATE INSURANCE, as)	Case No. 07-03731
subrogee of Empire Resources, Inc.,)	
)	(Judge Victor Marrero)
Plaintiff,)	
)	
-v-)	
)	
TOTAL QUALITY LOGISTICS, INC.,)	<u>THIRD-PARTY COMPLAINT</u>
<i>et al.,</i>)	
)	
Defendant /)	
Third-Party Plaintiff,)	
)	
-v-)	
)	
BOLIVAR INSURANCE AND REAL)	
ESTATE, INC.)	
800 West Market Street)	
P.O. Box 609)	
Bolivar, Tennessee 38008,)	
)	
and)	
)	
CANAL INSURANCE CO.)	
400 East Stone Avenue)	
P.O. Box 7)	
Greenville, South Carolina 29602-0007)	
)	
Third-Party Defendants.)	
)	
)	

Defendant and Third-Party Plaintiff Total Quality Logistics, Inc. (“TQL”), for its Third-Party Complaint against Third-Party Defendants Bolivar Insurance and Real Estate, Inc. (“Bolivar”) and Canal Insurance Co. (“Canal”), by and through counsel, states as follows:

1. TQL is a trucking logistics company incorporated and headquartered in the State of Ohio.

2. Bolivar is an insurance broker with its principal place of business in Tennessee.
3. Canal is an insurance company with its principal place of business in South Carolina.
4. Bolivar is an insurance agent that sells insurance policies issued by Canal.
5. On September 29, 2006, Bolivar provided TQL with a Certificate of Liability Insurance, certifying that Hill's Trucking, Inc., among other things, insured a 2000 Freightliner tractor, serial no. 1FUYDXYD7YLF171000, through a policy issued by Canal. A true and accurate copy of the Certificate of Liability Insurance is attached hereto at Tab A.
6. On or about October 1, 2006, the 2000 Freightliner tractor-trailer was stolen.
7. Canal has subsequently denied that it insured the Freightliner.

COUNT I — DETRIMENTAL RELIANCE

8. TQL repeats and re-alleges the responses in Paragraphs 1 through 6 above as if fully rewritten herein.
9. TQL relied in good faith upon the certification that the Freightliner was insured.
10. TQL has detrimentally relied upon the certification.
11. As a result of the certification, TQL has been forced to defend itself in this litigation in which it risks having a judgment entered against it.

COUNT II — ESTOPPEL

12. TQL repeats and re-alleges the responses in Paragraphs 1 through 10 above as if fully rewritten herein.
13. Based upon the Certificate of Liability Insurance, Canal is estopped from denying that it insured the 2000 Freightliner.
14. As a result of Canal's denial of insurance coverage, TQL has been forced to defend itself in this litigation in which it risks having a judgment entered against it.

WHEREFORE, Total Quality Logistics, Inc. demands that Bolivar Insurance and Real Estate, Inc. be forced to indemnify Total Quality Logistics, Inc. for any costs and expenses incurred in this litigation, including attorneys' fees and court costs, and demands that Bolivar Insurance and Real Estate, Inc., and Canal Insurance Co. indemnify Total Quality Logistics, Inc., if it is held liable to Plaintiff Fortis Corporate Insurance for the claims alleged in the underlying Complaint.

DATED: June 27, 2007

Respectfully submitted,

/s/ S. Henry Cho

S. Henry Cho, Esq. (SC 3793)

Sung Y. Ahn (SA 3773)

PAK & CHO, P.C.

230 Park Avenue, Suite #1000

New York, NY 10169

Tel: (212) 268-3607

1222 Anderson Avenue

Fort Lee, New Jersey 07024

Phone: (201) 886-0200

Fax: (201) 886-0111

sjhenrycho@pakcho.com

ahn@pakcho.com

*Attorney for Defendant/Third Party Plaintiff,
Total Quality Logistics, Inc.*

Charles M. Miller (*Pro hac vice* pending)

One East Fourth Street, Suite 1400

Cincinnati, Ohio 45202

Phone: (513) 579-6967

Fax: (513) 579-6457

cmiller@kmklaw.com

*Attorney for Defendant / Third-Party Plaintiff,
Total Quality Logistics, Inc.*

AGORD CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 9/29/2006
PRODUCER Boilvar Insurance and Real Estate, Inc. 800 West Market St. P. O. Box 609 Bollivar, TN 38008	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Hill's Trucking, Inc. 2305 Us Hwy 57 East Grand Junction, TN 38039	INSURERS AFFORDING COVERAGE INSURER A: Canal Insurance Company INSURER B: INSURER C: INSURER D: INSURER E:	NAIC # Canal

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (\$1 occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/PROP AGG \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	BA0687968	06/29/2006	06/29/2007	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	OTHER CARGO	MTC339421	06/29/2006	06/29/2007	\$100,000 PER VEHICLE \$200,000 PER OCCURRENCE \$1,000 DEDUCTIBLE

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

1997 PETERBUILT SERIAL #1XP50B8X5UN430834, 1990 FREIGHTLINER SERIAL #1FUYDRYB36P383955
 1996 PETERBUILT SERIAL #1YPCDB8X4TN381226, 2000 FREIGHTLINER 1FUYDXYB7YLF171000,
 2000 FREIGHTLINER 1FUYDXYB1YLF17111, 1993 KENWORTH SERIAL #1XKADR9X7PS612633,
 1990 PETERBUILT SERIAL# 1XP5DB9X1LD284630, TRANSCRAFT FLATBED TRAILER ITTF48207T1050648

CERTIFICATE HOLDER

TQL Inc.
 1701 Eddison Dr.
 Cincinnati, OH 45150

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Laurie L. Linn